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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,643	10/01/2003	Wan Shick Kim	SUN-DA-106T	1719

23557 7590 11/16/2006

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EXAMINER

MULLER, BRYAN R

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/676,643	KIM, WAN SHICK	
	Examiner	Art Unit	
	Bryan R. Muller	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2,3 and 5-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3 and 5-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Specification*

1. The amendment filed 8/29/2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material, which is not supported by the original disclosure, is as follows: the diluent is pure water or "a solution with substantially the same **ingredients** as the slurry solution". The original specification disclosed that the solution has substantially the same **composition** as the slurry, wherein the definition of composition is "the qualitative and quantitative makeup of a chemical compound<sup>1</sup>". Thus, the original specification discloses that the diluent solution is either water or **a solution having the same ingredients in the same proportions as the slurry solution**. The new matter, disclosing that the diluent solution only has the same ingredients as the slurry solution, therefore will broaden the scope of the invention by disclosing that the diluent solution will have the same ingredients as the slurry solution but does not necessarily have all of the same ingredients **in the same proportions** as disclosed in the original specification that the diluent solution has may have the same composition as the slurry solution.

Applicant is required to cancel the new matter in the reply to this Office Action.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 3 and 6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As discussed supra, the amendment to claim that the diluent solution has the same ingredients as the slurry solution is not supported by the original specification and would serve to broaden the scope of the claim.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Firstly, the applicant claims that the slurry in the slurry supply line is different than the supplied slurry. Due to the bypass that provides a diluent solution, the density and amount of particles in the slurry that is in the slurry supply line is different at different points along the slurry supply line (i.e. the slurry in the slurry supply line that is immediately adjacent to the nozzle will inherently be the same as the supplied slurry whereas the slurry that is in the slurry supply line at a point prior to the by-pass will inherently be more dense and have more particles because it has not been provided with the additional diluent solution from the by-pass). Secondly, both

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<sup>1</sup> *Merriam-Webster's Collegiate® Dictionary, Tenth Edition*

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claims appear to be comparing different units of measure. Claim 9, compares density (quantity per unit measure) of a slurry to amount (volume or mass) of a supplied slurry and claim 10 compares amount of particles (quantitative value) in a slurry to amount of a supplied slurry (volume or mass). It is unclear how these values can be inversely proportional to one another, respectively, when they are dealing with different units of measure.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondo et al (2002/0061722) in view of Grant et al (2003/0174306).

8. In reference to claim 2, Kondo discloses an apparatus to control slurry flow in a chemical mechanical polishing apparatus for planarizing an object to be polished by supplying slurry on a grinding pad through a slurry injection conduit, the apparatus comprising a slurry supply unit (10-3 and 42) to supply slurry to the slurry injection conduit (57) through a slurry supply line (56), a by-pass (561) diverged from the slurry line, wherein the slurry in the by-pass is returned to the slurry supply line, a photo image sensor (7) to detect a generally cross-sectional image of the slurry flowing in the by-

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pass, a slurry measuring unit (arithmetic processing unit; paragraph 48) to analyze the image captured by the photo image sensor to measure the sizes of particles included in the slurry and the density of the slurry, a slurry flow control unit (10) to control the slurry supply unit based upon the particle sizes and the slurry density measured by the slurry measuring unit. Kondo also discloses that it is difficult to measure abrasive grains in some circumstances when a large amount of larger sized abrasive grains are present in the slurry (paragraph 3, lines 19-25). However, Kondo fails to specifically disclose a slurry injection nozzle, but does disclose that the slurry is supplied to the work piece of a CMP tool, and it is commonly known in the art that a nozzle may be used to supply slurry to a work piece accurately during the CMP process. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to provide a nozzle to supply the slurry to the substrate in order to control the slurry and make application of the slurry more accurate. Kondo also fails to disclose that a diluent solution supply unit to supply diluent solution into the by-pass to reduce a concentration of particles in the slurry. Grant discloses a similar slurry control unit for monitoring and controlling slurry density and flow and teaches that when using optical particle sensors, similar to those used by Kondo, to detect size and quantity of particles in slurry, the slurry must be diluted enough so that only one detectable particle passes through the light beam at a time (paragraph 11). Therefore, it would have been obvious, in view of the disclosures of Kondo and Grant, to one of ordinary skill in the art at the time the invention was made to provide a means to further dilute the slurry solution prior to passing through the sensors to ensure that the sensors can obtain accurate readings. It

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would further have been obvious that the means to further dilute the slurry solution will be a diluent solution supply unit and to provide the diluent solution supply unit directly to the by-pass prior to the sensor(s). It would have been obvious to provide the diluent solution supply unit directly to the by-pass because a smaller amount of diluent solution would need to be added to the slurry solution in the by-pass than would need to be added to the slurry solution in the slurry supply line to sufficiently dilute the slurry solution that is passing through the sensor to desired amount. Supplying the smaller amount of diluent solution to the slurry in the by-pass will reduce expense of providing the diluent solution and will also serve to better maintain the desired composition of the slurry that is in the slurry supply line that is delivered to the injection nozzles by minimizing the additional diluent added to the entire system.

9. In reference to claim 3, Kondo discloses that the diluent for the original slurry production is pure water (abstract, lines 1-3) and Grant further discloses that the diluent can be several different types of water including pure water or water with pH adjusted to that of the slurry sample (paragraph 11). Thus, it further would have been obvious that the diluent solution provided to the by-pass could be pure water, as taught by Kondo and Grant, or water with an adjusted pH, as taught by Grant. Thus, the diluent solution is pure water or a solution of pure water and a pH adjuster, which is a solution with the same, pure water, ingredient as the slurry.

10. In reference to claim 5, The obvious combination of Kondo and Grant would provide a method to control slurry flow in a chemical mechanical polishing apparatus for planarizing an object to be polished by supplying slurry on a grinding pad through a

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slurry injection nozzle, the method comprising supplying slurry to the slurry injection nozzle through a slurry supply line, introducing slurry into a by-pass diverged from the slurry supply line, supplying a diluent solution into the by-pass to reduce a concentration of particles of the slurry, capturing a cross-sectional image of the by-pass to measure the sizes of particles included in the slurry and the density of the slurry, returning the slurry in the by-pass to the slurry supply line and controlling supply of the slurry based upon the measured sizes of particles and density of slurry.

11. In reference to claim 6, the diluent solution may be a solution with the same ingredient (pure water) as the slurry solution.

12. In reference to claim 7, it would be obvious that the density of the slurry supplied to the slurry injection nozzle would be higher than a density of the diluent solution because the slurry supplied to the slurry injection nozzle will have abrasive particles in pure water, where as the diluent solution is only pure water or water with a pH adjuster and because the abrasive particles are made of solid material, it would further be obvious that the abrasive grains have a higher density than the pure water or water with a pH adjuster and would thus, make the slurry solution of pure water and abrasive grains have a higher density than the diluent solution.

13. In reference to claim 8, it would further be obvious that the amount of particles in the slurry supplied to the slurry injection nozzle will be higher than the amount of particles in the supplied diluent solution because the supplied diluent solution does not have any particles in it.

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14. In reference to claim 9 and 10, as discussed supra, it is unclear how two values of different units of measure or different properties may be proportionally related to one another. In this situation, a claim which fails to comply with the first and/or second paragraph of §112 will not be analyzed as to whether it is patentable over the prior art since to do so would of necessity require speculation with regard to the metes and bounds of the claimed subject matter, **In re Steele**, 308 F.2d 859, 862-63, 134 USPQ 292, (CCPA 1962) and **In re Wilson**, 424 F.2d 1382, 1385, 496 USPQ 494, 496 (CCPA 1970).

### ***Response to Arguments***

15. Applicant's arguments filed 8/29/2006 have been fully considered but they are not persuasive.

16. The applicant argues that the amendments to the specification and claims that the diluent solution has the same ingredients is supported by the original presentation because the term found in the foreign priority application, Korean application No. 10-2002-0086887, may be translated as "composition" or "ingredients". However, the foreign application is not incorporated by reference because an explicit statement that the foreign application was "hereby incorporated by reference" is not found in the original disclosure of the current application (see MPEP 201.17), even if so, the amendment would not be considered an error in the translation because the applicant admits that the Korean term in question may be translated as "composition", an English translation of the Korean application has not been provided and the matter being

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amended is considered to be "essential matter" which may only be added to the original specification when taken from a U.S. patent or U.S. patent application publication that has properly been incorporated by reference (see MPEP§ 1.57).

17. The applicant also argues that the subject matter of claims 7-10 is clear and supported in the original specification. However, the examiner responds that the rejection of claim 7 under 35 U.S.C. 112, second paragraph was incomplete and inadvertently included in the previous office action and has been withdrawn, no rejection under 35 U.S.C. 112, first or second paragraphs has been made in the current or previous office action. Further, claims 9 and 10 are still held to be unclear and not supported by the equations supplied by the applicant in the arguments because they appear to be comparing one value to another value having different units of measure wherein the equations provided by the applicant compare one value to a relative proportion of multiple different values that will provide equivalent units of measure.

18. Finally, the applicant argues that the combination of Kondo et al and Grant et al fails to suggest returning a diluted slurry to the slurry supply line. However, the Kondo reference clearly discloses that the slurry by-pass line does return the slurry to the slurry supply line after passing through the sensor and the secondary Grant reference is only used as a teaching that slurry properties are more accurately analyzed with sensors when diluted prior to sensing. Thus, the teaching of Grant would only lead one of ordinary skill in the art to alter the apparatus of Kondo by providing a diluent to the slurry by-pass prior to the sensing portion of the by-pass in order to allow for more accurate

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sensing but, as disclosed by Kondo, the slurry by-pass clearly returns the analyzed slurry to the slurry supply line, which would be diluted, as taught by Grant.

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Farkas et al (5,710,069) discloses an apparatus for monitoring and controlling slurry using a photo image sensor, Cerni et al (6,275,290) discloses an apparatus for monitoring and controlling slurry that comprises a by-pass with a photo image sensor to detect a cross-sectional image of the slurry in the by-pass, Kilham (5,191,388) discloses a photo image sensor apparatus for analyzing particulate matter in slurry flow, Choi et al. (2003-036970) discloses a method for measuring density and particle size in a slurry using ultraviolet light, Lawton (6,347,976) discloses a common CMP system the uses sensors to determine operating properties of the system to control the system and uses a nozzle to supply the slurry to the substrate.

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan R. Muller whose telephone number is (571) 272-4489. The examiner can normally be reached on Monday thru Thursday and second Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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11/1/2006

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